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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,270	08/19/2003	Remy Zimmerman	09623V-045300US	5170
20350	7590	01/09/2009		
TOWNSEND AND TOWNSEND AND CREW, LLP			EXAMINER	
TWO EMBARCADERO CENTER			SURVILLO, OLEG	
EIGHTH FLOOR			ART UNIT	PAPER NUMBER
SAN FRANCISCO, CA 94111-3834			2442	
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			01/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/644,270

Examiner

OLEG SURVILLO

Applicant(s)

ZIMMERMANN ET AL.

Art Unit

2442

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 29 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) The period for reply expires 3 months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1 and 4-21

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
 See Continuation Sheet

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. Other: _____

/Andrew Caldwell/

Supervisory Patent Examiner, Art Unit 2442

Continuation of 11: Applicants argue regarding par. [0027], [0031], and [0034] of Mora that "neither a received e-mail nor a calendar entry is a piece of multimedia information that includes one of audio information, still image information, and video information" and that "presence detection in Mora is not discussed for changing status as recited in claim 1". Examiner disagrees with applicants' argument that Mora teachings in at least par. [0027], [0031], and [0034] do not meet the claim limitations. In particular, Mora clearly shows in at least par. [0027], [0031], and [0034] that multimedia information (i.e. motion event information) is used to determine status related to mere presence and beyond that, possibly in combination with other data, such as from the PIM 124 and manual user input. In particular, Mora shows at Fig. 2 that Messenger Assistant 122 communicates directly with the PIM 124. A presence detection application 129 passes presence information from presence detection events to the Messenger Assistant 122. The Messenger Assistant 122 sends data to the PIM 124. Thus, Messenger Assistant 122, the PIM 124 and Presence Detection Application 129 are in communication with each other and the status "beyond mere presence" is based on at least one or more of the data objects received from the PIM 124 (PIM Event 138 at Fig. 3), Presence Detection Application 129 (Presence Event 140 at Fig. 3), and User Input 136 at Fig. 3. Therefore, the combination of Best and Mora teachings meet the claim limitations and the rejection is maintained.

Applicants are reminded that the limitation of "the multimedia information comprises at least one of audio information, still image information, and video information" is open-ended, that is it may include other information such as PIM entries and user input in Mora as part of "multimedia information". There is nothing in the claim that would limit the multimedia information to at least one of audio, still image and video information. In addition, there is nothing in the claim that would require determination of user status be based exclusively on the captured multimedia information, wherein the multimedia information is limited to audio, still image, and video, as discussed above. Such that, determination of the user status beyond mere presence can be based on combination of at least one of audio, still image and video information and some other data, such as PIM entries and user input in Mora. Only if each of independent claims is amended to limit multimedia information to recited audio, still image, and video information, and to further specify that status of the user is determined exclusively based on said multimedia information can applicants' arguments be held as persuasive.

As to any arguments not specifically addressed, they are the same as those discussed above.